

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BARRY TODD EBLEN,

Defendant.

CR-03-122-BMM-1

**FINDINGS AND  
RECOMMENDATIONS TO  
REVOKE DEFENDANT'S  
SUPERVISED RELEASE**

**I. Synopsis**

Mr. Eblen was accused of violating his conditions of supervised release by failing to report to the probation office as directed and by using alcohol. He admitted to the violations. Mr. Eblen's supervised release should be revoked. He should be sentenced to time-served, with no supervised release to follow.

**II. Status**

On July 12, 2004, United States District Judge Sam Haddon sentenced Mr. Eblen to 120 months custody with thirty-six months of supervised release to follow after having pled guilty to Possession of a Stolen Firearm. (Doc. 23). Mr. Eblen's supervised release began on August 28, 2012.

**Petition**

On September 11, 2012, the United States Probation Office filed a petition

asking the Court to revoke Mr. Eblen's supervised release. In the petition, the Probation Office accused Mr. Eblen of violating the conditions of his supervised release by failing to report to the probation office as directed on September 4, 2012, and that on September 7, 2012, Mr. Eblen had used alcohol and submitted a breath sample which read .242. (Doc. 27). Based on the petition, Judge Haddon issued a warrant for Mr. Eblen's arrest. (Doc. 28).

On August 3, 2015, the Court noted in the docket that Mr. Eblen was in state custody and unsealed the petition accordingly.

### **Initial appearance**

Mr. Eblen appeared before the undersigned on January 3, 2018, in Great Falls, Montana. Federal Defender Hank Branom accompanied him at the initial appearance. Assistant United States Attorney Jessica Betley represented the United States.

Mr. Eblen said he had read the petition and understood the allegations. Mr. Eblen waived the preliminary hearing, and the parties consented to proceed with the revocation hearing before the undersigned.

### **Revocation hearing**

Mr. Eblen admitted that he violated the conditions of his supervised release as alleged in the petition. The violation is serious and warrants revocation of Mr. Eblen's supervised release.

Mr. Eblen's violation grade is Grade C, his criminal history category is VI, and his underlying offense is a Class C felony. He could be incarcerated for up to twenty-four months, with thirty-six months of supervised release to follow, less any term of custody. The United States Sentencing Guidelines call for five to eleven months in custody.

Mr. Branom recommended that Mr. Eblen receive credit for the extensive time served on related state charges and that there be no supervised release to follow. Mr. Eblen addressed the Court and stated that he has a plan to get his life back on track. Ms. Betley agreed with the recommendation.

### **III. Analysis**

Mr. Eblen's supervised release should be revoked because he admitted violating its conditions. Mr. Eblen should be sentenced to time-served with no supervised release to follow. This sentence would be sufficient given the seriousness of the violations but not greater than necessary.

### **IV. Conclusion**

Mr. Eblen was advised that the above sentence would be recommended to Judge Morris. The Court reminded him of his right to object to these Findings and Recommendations within 14 days of their issuance. The undersigned explained that Judge Morris would consider Mr. Eblen's objection, if it is filed within the allotted time, before making a final determination on whether to revoke Mr.

Eblen's supervised release and what, if any, sanction to impose. Mr. Eblen stated that he understood his right to object and waived that right, as did Ms. Betley on behalf of the government.

The Court **FINDS:**

Barry Todd Eblen violated the conditions of his supervised release by failing to report to the probation office as directed and by using alcohol.

The Court **RECOMMENDS:**

The District Court should enter the attached Judgment, revoking Mr. Eblen's supervised release and sentencing Mr. Eblen to time-served, with no supervised release to follow.

Dated the 2nd day of January, 2018.



John Johnston  
United States Magistrate Judge